

DW 03-109

CONWAY VILLAGE FIRE DISTRICT

Petition to Expand Franchise Area

Order Approving Expansion Request  
and Granting Exemption from Regulation

O R D E R N O. 24,208

September 11, 2003

I. PROCEDURAL HISTORY

On May 7, 2003, Conway Village Fire District (District), a municipal corporation formed under RSA 52:1 and located in Conway and Albany, filed with the New Hampshire Public Utilities Commission (Commission) a petition to expand its franchise territory to include additional territory within the Town of Conway. The petition noted that the proposed boundary expansion was approved by the Town of Conway Board of Selectmen on February 25, 2003 and the Town of Albany Board of Selectmen on March 10, 2003.

On August 4, 2003, the Commission issued an Order of Notice setting two public hearings for August 27, 2003, one hearing to be held in Albany and another hearing in Conway. On August 26, 2003, the Commission received a letter from a customer expressing concern about rates and the condition of a private service line running to his home.

The hearings took place as scheduled. On September 8, 2003, the District filed a letter correcting a typographical error contained in the Petition.

On September 9, 2003, Commission Staff recommended approval of the Petition. Staff cited the prior approvals of the Towns of Albany and Conway and of the approval by the voters of the Conway Village Fire District for the proposed expansion. Staff also indicated that customer who submitted a complaint to the Commission on August 26, 2003 had informed Staff that the customer was working directly with the District to resolve the matter.

On September 10, 2003, Staff submitted a letter from the Department of Environmental Services (DES) containing a determination that the District met the suitability and availability requirements of RSA 374:22, III and that DES supported the boundary expansion.

## **II. COMMISSION ANALYSIS**

Conway Village Fire District has requested Commission approval of certain expansions to its franchise area in the Town of Conway. The franchise expansion request came about after the District ratified an expansion of its boundary. RSA 374:22 states that no person or business entity shall commence business or "exercise any right or privilege under any franchise not theretofore actually exercised in such town, without first

having obtained the permission and approval of the Commission." RSA 374:26 states the Commission shall grant franchise permission "without hearing when all interested parties are in agreement."

The record supports a determination that all interested parties are so agreed. The District's Board of Commissioners voted on January 16, 2003, pursuant to RSA 52:5, to petition the Selectmen for the Towns of Conway and Albany to change the boundaries of the District. The Town of Conway and Town of Albany held a duly noticed joint public hearing on February 18 and 25, 2003 and the boards of selectmen voted to approve the boundary change. The Board of Selectmen for the Town of Albany held another meeting on March 5, 2003 and voted unanimously in favor of the District's expansion request. At the Conway Village Fire District Annual Meeting, held on March 10, 2003, voters unanimously ratified the boundary change. On September 9, 2003, Staff submitted a letter to the Commission recommending approval of Conway Village Fire District's Petition to expand its franchise.

The Commission was obligated, under RSA 38:25-a, to hold public hearings in each town or city in which the village district is located. At the requisite hearings, conducted on August 27, 2003, there was no opposition expressed to the franchise expansion request.

The District has also requested that the Commission extend its previous exemption from regulation to cover the expanded franchise area. Pursuant to RSA 362:4, III, a municipal corporation furnishing water service outside its municipal boundaries shall not be considered a public utility for purposes of accounting, reporting, or auditing functions with respect to said service if it charges customers outside its boundaries rates no higher than 15 percent above those charged customers within its boundaries. In *Conway Village Fire District*, 78 NH PUC 115 (1993), the Commission granted the District an exemption from regulation because the District was serving fewer than ten customers outside of the District's limits and was providing those customers with the same quantity and quality of water at the same rates charged within the District. The District has stated it does not plan to change its rates as a result of this franchise expansion. The District's present rates and charges do not differentiate between customers inside and outside the District. The exemption requirements of RSA 362:4, III are thus satisfied.

RSA 374:22, III, requires a water company to satisfy the requirements of the Department of Environmental Services concerning the suitability and availability of water for the applicant's proposed water utility. By letter dated September 10, 2003 the Department of Environmental Services agreed that

the District met the suitability and availability requirements of RSA 374:22, III and supported the proposed expansion.

Accordingly, we find that District's request to expand its franchise area is for the public good. We also find that the District's continued exemption from regulation pursuant to RSA 362:4 is in the public interest.

**Based upon the foregoing, it is hereby**

**ORDERED**, that the request by the Conway Village Fire District to expand its franchise area is hereby **APPROVED**; and it is

**FURTHER ORDERED**, that the Conway Village Fire District's request for continued exempt status, pursuant to RSA 362:4, is hereby APPROVED.

By order of the Public Utilities Commission of New Hampshire this eleventh day of September, 2003.

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Thomas B. Getz  
Chairman

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Susan S. Geiger  
Commissioner

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Nancy Brockway  
Commissioner

Attested by:

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Debra A. Howland  
Executive Director and Secretary